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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/841,094      | 04/25/2001  | Rudolf Seiz          | Q63688              | 4971             |

7590 03/19/2003

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| EXAMINER |
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HORTON, YVONNE MICHELE

|          |              |
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| ART UNIT | PAPER NUMBER |
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3635

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

**Office Action Summary**

Application No.

09/841,094

Applicant(s)

RUDOLF SEIZ

Examiner

YVONNE M. HORTON

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Jan 27, 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jan 27, 2003 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_                      6) ☐ Other:

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*Truss does not attach to lower boom with a curved or bent portion.*

**DETAILED ACTION**

**Specification**

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not clearly detail what is meant by attaching the truss members to the lower boom members “without bending”. Is without bending referring to the truss braces themselves not being bent or the truss braces not bending about the boom members. Clearly, the truss braces are bent as at curve (3b). Clarification is required.

**Claim Rejections - 35 USC § 112**

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 details that the truss braces about the lower boom member “without bending”, this recitation is vague in that it is not clear if “without bending” is referring to the truss braces themselves not being bent or the truss braces not bending about the boom members.

Further, it is not clear how the truss members are attached “without bending” when it is detailed that each truss member have a curved part and a straight part. The curved part is a clear indication of “bending”. Clarification is required.

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***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-5 stand rejected under 35 U.S.C. 102(b) as being anticipated by DE 19711627. DE 19711627 discloses a lattice girder including an upper (1) and lower (2) boom members arranged parallel to each other and forming a "triangle". The lattice girder further includes truss braces formed by straight brace parts (3) spaced in a v-shape relative to one another and being connected at a straight bridge (4a). A cross tie (4) extends at right angles to the lower boom (2) and the trusses are welded (5-7) to the lower boom members, see figures 1a and 1b. The method of forming a device is not germane to the issue of patentability of the device itself. Thus, the method of attaching without bending has not been given patentable weight. In reference to claim 2, the truss members abut the lower boom (2) at an acute angle ( $\alpha_1, \alpha_2$ ), see the marked attachment, and is welded to the lower boom (2) and the straight brace (3). Regarding claim 3, the ends of the cross ties (4) are disposed between the truss braces and the lower booms (2), see figure 2b, and is welded (5) therebetween, see figure (1a). In reference to claim 4, the straight braced parts (3) are connected to each other through a curved/buckled part (3a,3b), and the straight bridge (4a) is located between the curved/buckled parts (3a,3b) and extend parallel to the upper (1) and lower (2) booms. Regarding claim 5, the upper boom (1) is arranged between the straight bridge pieces (4a) and is welded thereto, see figure 5b.

5. Claim 7 stands rejected under 35 U.S.C. 102(b) as being anticipated by DE 19711627.

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DE 19711627 discloses a lattice girder including an upper (19') and lower (20',21') boom members arranged parallel to each other and forming a "triangle". The lattice girder further includes truss braces formed by two angled straight brace parts (11'-14') curved (18) at one end and straight (22) at the other end; wherein a straight part (25) of the upper boom (19') connects the braced parts (11'-14') at the curved parts (18,26) and the truss braces are connected to each other by cross ties (23') welded thereto.

6. Claim 8 stands rejected under 35 U.S.C. 102(b) as being anticipate by DE 19711627.

DE 19711627 discloses a lattice girder including two angled straight brace parts (15-17) curved (18) at one end and straight (22) at the other end; and having a straight bridge portion (23) connecting the straight braced parts (15-17).

***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19711627. As detailed above, DE 19711627 discloses the basic claimed lattice girder except for the boom member being arranged at different heights relative to the straight bridge pieces. It Although DE 19711627 is silent in this regard, it would have been an obvious matter of design choice to one having ordinary skill in the art at the time the invention was made to arrange the

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members of the lattice in a manner that would allow the structure to achieve its maximum load potential.

*Response to Arguments*

9. Applicant's arguments filed 1/27/03 have been fully considered but they are not persuasive.

In regards to the applicant's argument that the truss members of DE 19111627 are not attached to the boom members without bending, the step of bending is a method step. The method of forming a device is not germane to the issue of patentability of the device itself. Thus, the step of attaching without bending has not been given patentable weight. Further, it is not clear what applicant intends by "attachment without bending". Is "attachment without bending" referring to the truss braces themselves or the to the truss braces about the lower boom. It is clear from the drawings and the specification that the truss members each have a curved portion (3b). Surely, this is a bend. Thus, there must be some type of bending.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH



March 17, 2003

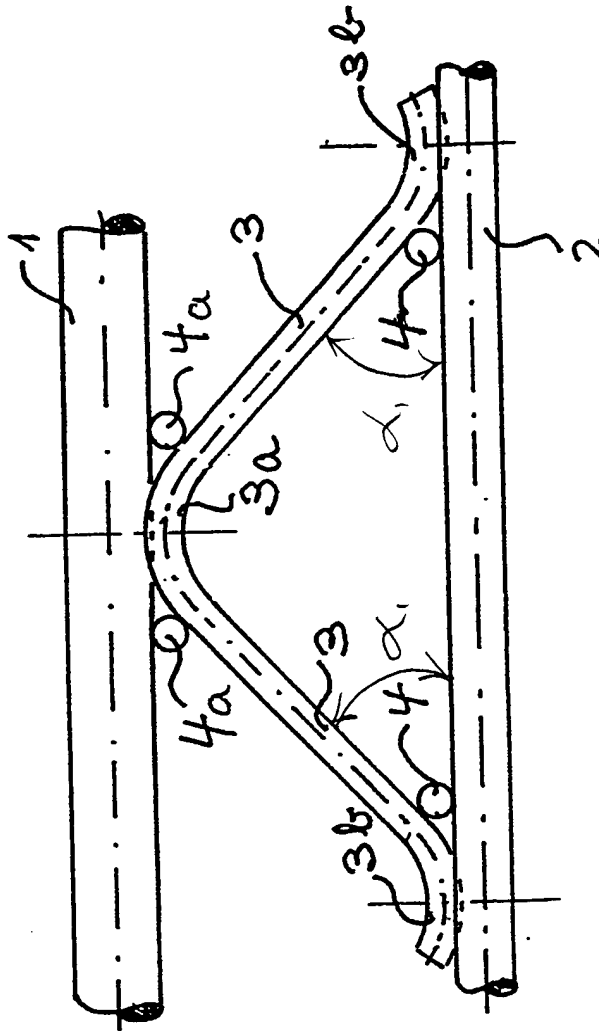


Fig 2b

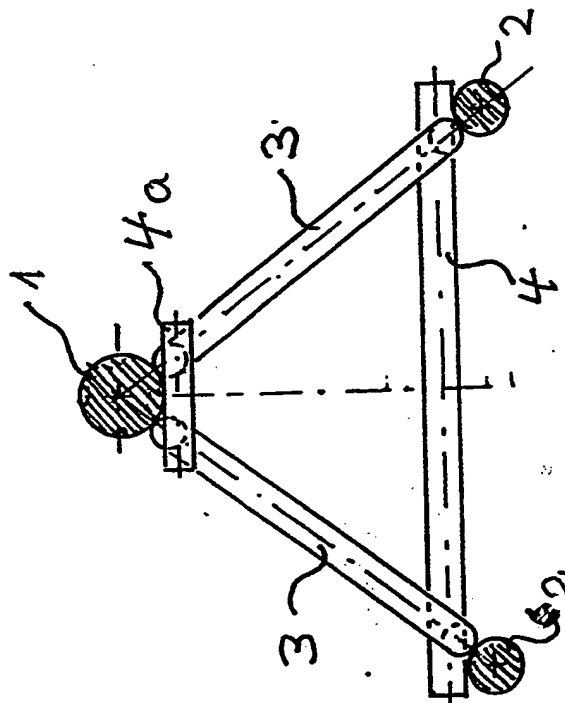


Fig 2a